2013 IL App (4th) 111135-U

NO. 4-11-1135

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
September 25, 2013
Carla Bender
4th District Appellate
Court, IL

In re: JACOLBY B., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v.	)	No. 11JD179
JACOLBY B.,	)	
Respondent-Appellant.	)	Honorable
	)	Craig H. DeArmond,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Steigmann concurred in the judgment.
Justice Turner dissented.

ORDER

¶ 1 *Held*: The evidence was sufficient to prove respondent committed the offense of criminal damage to property beyond a reasonable doubt when the limited direct evidence was supported by sufficient circumstantial evidence.

¶ 2 In November 2011, the trial court adjudicated respondent, Jacolby B., born August 11, 1994, a delinquent minor. He appeals the court's judgment, claiming the evidence presented at his trial was insufficient to prove he committed the offense of criminal damage to property under the standard appropriate for juvenile delinquency proceedings. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In September 2011, the State filed a petition for adjudication of wardship, alleging respondent was a delinquent minor because he committed the offense of criminal damage to property, a Class A misdemeanor (720 ILCS 5/21-1(1)(a), (2) (West 2010)) when he knowingly

damaged a door at Danville High School. Respondent was the subject of several other delinquency petitions, including Vermilion County case Nos. 10-JD-124, 10-JD-216, and 11-JD-118. For the most part, all four cases were combined during the trial court proceedings.

¶ 5 On November 1, 2011, the trial court conducted a combined bench trial. Only one witness was called by both parties to testify regarding the charge in this appeal. The State called Darin Chambliss, the assistant principal at Danville High School, who testified that respondent was a student at the school. On August 24, 2011, Chambliss was summoned to Room 313 by an emergency telephone call, where respondent was being detained by two staff members. Chambliss described respondent as "visibly upset." Chambliss testified respondent "had punched a hole or punched a panel out of the door on a closet within that classroom." Respondent's counsel objected on the basis of hearsay. The trial court responded: "I don't know that yet, but I'll reserve ruling on your objection."

¶ 6 When the prosecutor asked if Chambliss saw any damage in the room, Chambliss said a panel on a closet door within the classroom "had been punched out." Chambliss and the staff tried to "calm [respondent] down." Chambliss and respondent walked to Chambliss's office to get respondent's statement about a "previous incident that had occurred that got [respondent] upset," but respondent would not identify any other individual. Chambliss informed respondent he was going to be suspended and respondent "threw the clipboard with the witness statement across the room." Respondent "continu[ed] to make threats to the other student, although he didn't say who the other student was—said him and his squad was going to get him." Respondent was arrested for damaging the door.

¶ 7 On cross-examination, the following exchange occurred:

"Q. Mr. Chambliss, it's fair to say the incident occurred before you arrived, correct?

A. Correct.

Q. Okay. And there was at least one other student that had been involved, correct?

A. That's correct."

Both parties rested.

¶ 8 In its ruling from the bench, the trial court stated:

"The criminal damage to property is a little bit more interesting. Mr. Chambliss testifies that he's called; the administrator is needed immediately in Room 313. He arrives.

The defendant is present with—the respondent minor is present with two staff members, and there's a punched hole in the door. He's advised that the panel of the door was missing.

There's an objection to hearsay, but there was never then any follow-up question with regard to any conversation. So the question becomes is there sufficient circumstantial evidence to establish that [respondent] is responsible for the damage to the door.

We have the testimony of the assistant high school principal, who indicates that he's called to the room. There's a panel to the door which is damaged. It's [respondent] who is being taken to the principal's office. When there, he's being asked to give a statement

with regard to some preceding incident; and there's a blowup in the principal's office, which, honestly, is not relevant to the charge and doesn't add anything to the proofs of the case.

He's not charged with disorderly conduct. Had he been charged with disorderly conduct, it's probably a good disorderly conduct for his behavior in the principal's office. But he's not charged with that, and that's not one of the elements.

So the issue becomes can I find by proof beyond a reasonable doubt, based upon circumstantial evidence, that [respondent] is responsible for the damage to the door. The reason I believe I can is because the principal advises that he's being called to that room for a particular reason. It's an emergency call. It's [respondent] who is being detained by the two staff members in the immediate vicinity of what appears to be a punched hole in a door. It's [respondent] who is being removed to the principal's office.

It would be reasonable to believe that if, in fact, there was some other individual involved he, too,—or she, too—would have been detained by the staff members, and he, too, would have been taken to the principal's office. That's not the evidence in the case.

So we have [respondent], a damaged door; the assistant principal arrives immediately thereafter, and it's [respondent] who is being taken to the principal's office after being detained by the two

staff members.

> Although not the best evidence in the world, it is circumstantial evidence; and circumstantial evidence is as good as any other evidence.
>
> Based upon the circumstantial evidence, I find that the respondent minor is guilty of the offense of criminal damage to property, a Class A misdemeanor, in [case No.] 11-JD-179."

¶ 9 At the dispositional hearing, the trial court, noting respondent had nine contacts with the police and informing respondent that his "time's up," sentenced respondent to the Illinois Department of Corrections Juvenile Justice Division for an indeterminate term "not inconsistent with a Class A misdemeanor." This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Respondent contends the evidence was insufficient to prove he committed the offense of criminal damage to property when the State's only witness testified respondent was in a classroom in proximity to a recently broken door. Respondent reportedly had an altercation with another individual, and, according to respondent, the evidence does not clearly suggest which individual damaged the door. Respondent claims his "mere presence at the scene of an offense is insufficient to establish guilt beyond a reasonable doubt, and convictions based on such evidence have been consistently reversed on appeal." We note the standard of proof required in a delinquency hearing by the trial court is proof beyond a reasonable doubt. 705 ILCS 405/5-605(3)(a) (West 2010).

¶ 12 Contrary to respondent's position, we conclude the evidence was sufficient to prove his guilt beyond a reasonable doubt. Respondent correctly asserts that evidence of his mere presence

in the classroom was not enough, in and of itself, to support his conviction. *People v. Mitchell,* 59 Ill. App. 3d 367, 369-70 (1978). Rather, "[t]he circumstantial evidence which supports a conviction must produce a reasonable and moral certainty that the accused committed the offense." *Mitchell*, 59 Ill. App. 3d at 369.

¶ 13 " 'When a defendant challenges the sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. [Citation.]' 'The requirement that a defendant's guilt be proved beyond a reasonable doubt does not mean that inferences flowing from the evidence should be disregarded. [Citation.]' " *People v. Kelly*, 361 Ill. App. 3d 515, 520 (2005) (quoting *People v. Woods*, 214 Ill.2d 455, 470 (2005); see also *People v. Schmalz*, 194 Ill.2d 75, 81 (2000)). This standard of review applies whether the evidence is direct or circumstantial. *People v. Pelo*, 404 Ill. App. 3d 839, 880 (2010). A conviction based on circumstantial evidence is justified when all of the evidence taken together satisfies the trier of fact beyond a reasonable doubt that the defendant committed the offense. *People v. Johnson*, 170 Ill. App. 3d 828, 832 (1988).

¶ 14 A person commits criminal damage to property when he knowingly damages any property of another. 720 ILCS 5/21-1(1)(a) (West 2010). Here, proof of respondent's presence in the classroom with the damaged property was accompanied by circumstantial evidence that (1) there was an altercation between respondent and another individual; (2) respondent entered the classroom in an agitated state; (3) he punched a hole in the door, which prompted the staff to place an emergency call to the assistant principal; (4) only respondent was detained by the staff as a result; and (5) only respondent was taken to the principal's office. The trial court concluded the only

reasonable explanation for the circumstances presented via the testimony of the assistant principal, coupled with the inferences leading therefrom, was that respondent damaged the door. See *People v. Jones*, 81 Ill. App. 3d 724, 726 (1980) (the defendant's mere presence at the scene alone was insufficient to convict until it was accompanied by reasonable circumstantial evidence of guilt).

¶ 15 Had another individual participated in breaking the door, it is reasonable to assume the staff would have detained him as well. In his brief, respondent claims another individual was in the classroom at the time the door was damaged, but we do not find a sufficient basis to compel that conclusion. Indeed, it *is* possible that another student was inside the classroom with respondent. However, it is equally possible the altercation occurred outside of the classroom, and thereafter, respondent entered the classroom "visibly upset" (the phrase Chambliss used to describe respondent when he arrived at the classroom) and vented his frustration by punching the door.

¶ 16 Given our standard of review, we conclude the circumstantial evidence in this case, coupled with the direct evidence presented, is sufficient to affirm the trial court's judgment. Viewing the evidence in a light most favorable to the prosecution, we determine the trial court reasonably found the essential elements of the offense of criminal damage to property beyond a reasonable doubt.

¶ 17 III. CONCLUSION

¶ 18 For the foregoing reasons, we affirm the trial court's judgment.

¶ 19 Affirmed.

¶ 20 JUSTICE TURNER, dissenting.

¶ 21 I respectfully dissent. I would reverse the trial court's judgment finding respondent guilty of criminal damage to property.

¶ 22 The majority states that "only respondent was detained by the staff" and "only respondent was taken to the principal's office." *Supra* ¶ 14. The majority concludes these two facts are circumstantial evidence of respondent's guilt. I disagree.

¶ 23 It is axiomatic that neither a detention nor an arrest can be considered evidence of guilt. See *People v. Attaway*, 41 Ill. App. 3d 837, 850, 354 N.E.2d 448, 459 (1976) (noting "[a]n arrest is not evidence"); *State v. Oliver*, 821 P.2d 250, 252 (Ariz. App. 1991) (stating "a mere arrest is not evidence of guilt"); *United States v. Sardelli*, 813 F.2d 654, 657 (5th Cir. 1987) (stating "it is 'hornbook law' that indictments are not evidence of guilt"); *Lundberg v. Baumgartner*, 106 P.2d 566, 568 (Wash. 1940) (stating "[a]n arrest is not competent evidence of either conviction of crime or of misconduct. It is, in effect, only a charge or accusation of wrongdoing"); *Williams v. State*, 57 So. 1030, 1031 (Ala. Ct. App. 1912) (stating "[t]he mere fact of the defendant's arrest and detention is not evidence of his guilt of the charge on which he was arrested").

¶ 24 Despite the above fundamental principles, the majority inexplicably considers respondent's detention as evidence of his guilt. I conclude this is error, and because the trial court made the same mistake, I would reverse respondent's conviction.